

From: Lawrence Person
To: Microsoft ATR
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Subject: Microsoft Settlement

To all it may concern,

I believe that the proposed Microsoft settlement is a bad deal for computer users, for the computer industry, and for the nation as a whole. It does nothing to address Microsoft's predatory and monopolistic tactics, nothing to address the fact that it's blithely broken previous consent decrees and defied court orders, and nothing to provide relief for companies and consumers who have been harmed by these practices. It should be rejected and far more stringent financial and structural penalties imposed.

Despite their slogan, Microsoft has achieved it's current position not by "innovation" or hard work so much as by imitation (Apple) or outright theft (Stack Technologies) of the innovations of others. It used strong-arm tactics, sharp practice and predatory pricing to establish it's monopoly in operating systems, then illegally used that same monopoly to grab equally compelling strangleholds on other areas of the software industry. At best Microsoft is a sandlot bully, threatening others with its monopoly power to get its own way. At worse it's a third world dictator, knowing it's above the law (witness its boldfaced violation of its first consent decree, and how it lied, repeatedly, in court) with the firm knowledge that it's too powerful to be punished.

A company truly dedicated to innovation would not wait two years to address the myriad security vulnerabilities of Windows and Outlook. If a different component on Ford trucks were to blow up and be recalled every week, Ford would be out of business very quickly indeed. If Microsoft did not wield such monopoly power, it would not be able to get away with selling such defective products.

Microsoft has proven again and again that consent decrees are entirely inadequate to stop its predatory practices. Only harsh, structural and lasting penalties will be able break it's monopoly power and return real competition to the markets it illegally dominates.

For penalties which would truly address Microsoft's monopoly power, punish it for past transgressions, and provide real relief to the victims of it's illegal actions, I propose the following:

1. Microsoft should be levied a \$10 billion fine. Half of this money should be earmarked for the DOJ and state attorneys general to pay for the cost of prosecuting Microsoft, and to pay the cost of future oversight and enforcement, and half should be returned to the consumers and companies harmed by Microsoft's predatory practices.

2. The source code for all Microsoft products released through 1999 should be released in their entirety and made available

to the public to be used by anyone to create their own versions of Windows, Office, etc. without paying royalties to Microsoft. This would also provide relief from Microsoft's monopolistic practice of using "embrace and extend," i.e., making its products intentionally incompatible with established computing standards for the sole purpose of using its illegal monopoly to erect barriers to competition. With the source code readily available, it would be a simple matter both to engineer compatibility to Microsoft's "enhancements," and to recompile Microsoft programs to adhere to open computing standards.

3. All the Application Programming Interfaces (APIs) to all shipping Microsoft products should be published and made freely available. This would prevent Microsoft's anti-competitive tactic of leveraging its Windows monopoly through the use "secret" APIs in Windows that only Microsoft programmers can use to enhance their other product lines.

4. Microsoft should be split into no less than four separate companies: One responsible for Windows, a second for Office, a third for Internet Explorer, Back Office, Outlook, and all its other Internet-related software, and a fourth for everything else (X-Box, WebTV, etc.). However, source code for all of Microsoft's currently shipping products should be distributed to each of these companies, with each having the ability to reuse or sublicense such code. This would create many competing products in segments of the market previously dominated by Microsoft, to the great benefit of consumers. These companies would also be barred from merging with each other or sharing directors for at least ten years.

5. The above companies would have one year to plug all known security holes in Windows and Outlook. After that period, they would be made financially liable for any economic damage such vulnerabilities in their software cost customers who had all current security patches installed but were still victimized by hackers or viruses.

6. The MS Office spinoff would be required to produce simultaneous versions of Office for the most recent release of Mac OS and Linux, at price parity with the Windows version, for a period of five years.

7. A government oversight board would be created with the authority to unilaterally impose fines, order remedies, change contracts, and release source code in order to implement the judgement.

This is a very radical remedy, and one I do not suggest lightly. In fact, I consider myself to be a Libertarian, one who believe that government should remain small and interfere in the free market only under the direst circumstances. However, one fundamental precondition for a free market is that those competing in it must obey the rule of law. Microsoft has shown, again and again, that it is willing to break and flout the law for its own benefit, and to

maintain it's illegal monopoly power. If Microsoft's earlier predatory practices had been curbed or punished when the first occurred, the government would not be faced with these vexing antitrust issues. But now that it has reached this point, serious structural remedies are the only solution. Microsoft has proven time and time again that it will not stop abusing it's monopoly power. It's now up to the courts eliminate that monopoly.

- Lawrence Person, Austin, Texas; Science Fiction Writer

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